

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 2823 of 1986

For Approval and Signature:

Hon'ble MR.JUSTICE C.K.THAKKER

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

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K P PATEL

Versus

GUJARAT NARMADA AUTO LTD

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Appearance:

MR GIRISH PATEL for Petitioner

MR HV CHHATRAPATI for Respondent No. 1

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CORAM : MR.JUSTICE C.K.THAKKER

Date of decision: 21/11/97

ORAL JUDGEMENT

This petition is filed for appropriate writ, direction and/or order declaring that the decision taken by the Gujarat Narmada Auto Ltd. respondent no.1 herein of not considering the petitioner for employment on the post of Assistant Manager (Works) or on any other equivalent post is arbitrary, illegal, unreasonable,

malafide and violative of Arts.14 and 16 of the Constitution.

It appears that the notice was issued initially by this court and after hearing the parties, it was admitted by issuing Rule. To day the matter is called out for hearing.

Mr.Patel submitted that the action taken by the respondent authorities is clearly illegal and arbitrary. He also submitted that though it was stated that the petitioner was not selected the said action was contrary to law inasmuch as extraneous consideration weighed with the authority.

Mr.Chhatrapati on the other hand submitted that on two counts the petition deserves to be dismissed, firstly the respondent no.1-Gujarat Narmada Auto Ltd. is no more in existence and that it is closed. It is in Liquidation. Hence, no writ, direction or order can be issued now even if the court is satisfied that the case has been made out by the petitioner. He further submitted that even on merits the petitioner has no case. Drawing the attention of the court to the affidavit-in-reply filed on behalf of the respondent authorities it was submitted that at the interview the petitioner was not found suitable. He submitted that ordinarily in exercise of the powers and jurisdiction under Art.226 of the Constitution of India, this court does not decide the question as to whether assertion made by the petitioner or by the respondent is correct.

In my opinion, the reliefs sought by the petitioner cannot be granted in view of the fact that now the first respondent is in liquidation. Prima facie, Mr.Chhatrapati is right in contending that the question as to whether the petitioner was or was not found fit at the interview, will not be decided in exercise of the powers under Art.226 of the Constitution as there is word against word.

For the foregoing reasons, in my opinion, no relief can be granted to the petitioner in this proceeding. It is, however, open to the petitioner to take appropriate proceedings in accordance with law if they are otherwise permitted.

In the result, the petition is dismissed. Rule is discharged. No costs.

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